

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 AEROVISTA PLACE, SUITE 101
SAN LUIS OBISPO, CALIFORNIA**

RESOLUTION NO. R3-2004-0119

Waiver of Waste Discharge Requirements

For

**REMEDIATION OF ONSITE SOIL
425 Tennant Avenue, Morgan Hill
Santa Clara County**

The California Regional Water Quality Control Board, Central Coast Region (hereinafter Regional Board) finds that:

1. California Water Code Section 13260(a) requires that any person discharging waste, or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Regional Board a report of the discharge ("report of waste discharge" or "ROWD") or other report containing such information and data as may be required by the Regional Board.
2. The Regional Board has a statutory obligation to prescribe waste discharge requirements except where the Regional Board finds that a waiver of waste discharge requirements for a specific type of discharge is consistent with applicable water quality control plans and is in the public interest pursuant to California Water Code Section 13269.
3. California Water Code Section 13269 provides that effective January 1, 2003, all waivers of waste discharge requirements must be conditional, may not exceed five years in duration, and may be terminated at any time by the Regional Board.
4. Olin Corporation and Standard Fusee Corporation (hereafter "Discharger") discharged or permitted the discharge of potassium perchlorate to waters of the state underlying a manufacturing facility located at 425 Tennant Avenue, Morgan Hill (hereafter "Property").
5. Discharger submitted the *Remedial Action Work Plan & 90% Design Report for Soil Remediation* (RAWP) on April 8, 2004. The RAWP details the design and implementation of perchlorate-contaminated soil treatment by both in situ and ex situ bioremediation. The two main components of the treatment include focused excavation of soils with perchlorate concentrations greater than 7.8 mg/kg and in situ bioremediation of soils above the site-specific soil screening level of 50 µg/kg. The enhanced anaerobic bioremediation treatment design requires addition of substrates including calcium magnesium acetate (CMA), citric acid, gypsum, and potassium bromide (a conservative tracer) during system startup. Discharger will follow up with additional applications of CMA, or other substrates, as needed and approved by the Executive Officer. Regional Board staff, in a June 10, 2004 letter, approved the overall design and implementation of the RAWP.
6. On June 29, 2004, submitted a Report of Waste Discharge for the planned soil remediation project.
7. Relevant factors in determining whether a waiver is in the public interest include the following:
 - Whether Discharger will observe reasonable practices to minimize the effects of the discharge;
 - Whether a feasible treatment method exists to control the pollutants in the discharge; and
 - Whether conditionally waiving ROWDs and/or waste discharge requirements will adequately protect beneficial uses while allowing the Regional Board to utilize more of its resources to conduct field oversight, public outreach and, where necessary, enforcement.

The conditions of this Resolution protect beneficial uses by:

- Prohibiting pollution, contamination or nuisance;
 - Requiring monitoring reporting of remediation activities through Revised Monitoring and Reporting Program No. 01-0161;
 - Requiring the Discharger to grant access to Regional Board staff to perform inspections; and
 - Facilitating the Discharger's cleanup of perchlorate.
8. If the proposed application of substrate is conducted in the manner prescribed in the RAWP, and the conditions of this Resolution, the application will not have an adverse impact on beneficial uses and will ultimately improve water quality. A waiver Waste Discharge Requirements is in the public interest and is consistent with applicable water quality control plans, including the Water Quality Control Plan, Central Coast Region.
9. This Waiver is an action to protect the environment and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), pursuant to Section 15308, Title 14, California Code of Regulations.
10. This Order requires monitoring and reports pursuant to Water Code Section 13267. This finding is made in compliance with Section 13267. The reports and monitoring required by this Order are necessary to ensure that the discharge described in this Order does not adversely impact water quality and that the conditions of the waiver are appropriate. The evidence supporting the need for this monitoring is described in this Order.

THEREFORE BE IT RESOLVED:

1. In accordance with CWC Section 13269, waste discharge requirements for the proposed application of substrates are hereby waived subject to the following conditions:
- a. The discharge must occur only from a soil remediation system designed specifically for this project and approved by the Executive Officer;
 - b. The Discharger must comply with all requirements of the Water Quality Control Plan adopted by the Central Coast Regional Water Quality Control Board and approved by the State Water Resources Control Board, and water quality control plans and policies adopted by the State Water Resources Control Board;
 - c. The discharge quality and quantity must ensure that beneficial uses of the receiving groundwater will not be impaired;
 - d. Discharge of wastes classified as "hazardous," as defined in California Code of Regulations, Title 23, Section 2521, or "designated," as defined in California Water Code Section 13173, is prohibited;
 - e. The discharge shall not create a pollution, contamination, or nuisance, as defined by California Water Code Section 13050, in groundwater or surface water or cause or contribute to the degradation of groundwater or surface water;
 - f. Discharge (including, overflow, bypass, seepage, and over spray) to surface waters or surface water drainage courses is prohibited;
 - g. Discharge, either directly or indirectly, to areas not identified in the report of waste discharge or

RAWP is prohibited;

- h. Discharge of radioactive substances, and chemical and biological warfare agents is prohibited. Discharge of wastes containing substances in concentrations toxic to human, plant, animal, or aquatic life is prohibited;
 - i. Discharger shall comply with Revised Monitoring & Reporting Program No. 01-0161, which includes monitoring applicable to the soil remediation project, as approved by the Executive Officer;
 - j. Discharger shall allow Regional Board staff entry onto discharge generation and disposal areas to determine compliance with waiver conditions;
 - k. This waiver does not cover the discharge of excavated soil. Such discharges may be exempt from waste discharge requirements (California Code of Regulations, Title 23, §2511(d) and Title 27, §20090(d)), but must comply with all applicable requirements;
 - l. Unless renewed by the Regional Board, this waiver expires July 9, 2009.
2. This Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC Section 13263.
 3. Pursuant to CWC Section 13269, this action waiving the issuance of waste discharge requirements for this Plan: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Board from administering enforcement remedies (including civil liability) pursuant to the CWC.
 4. The Executive Officer or Regional Board may terminate the applicability of this Waiver at any time when such termination is in the public interest and/or the cleanup activities could adversely affect the quality or beneficial uses of the waters of the State.
 5. This Waiver shall become effective on July 9, 2004, and shall expire July 9, 2009.
 6. As provided by CWC Section 13350(a), any person may be civilly liable if that person in violation of a waiver condition or waste discharge requirements, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State.
 7. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Resolution. Copies of the law and regulations applicable to filing petitions will be provided upon request

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on July 9, 2004.

Roger W. Briggs, Executive Officer